(3)

CF704

IN THE HIGH COURT OF JUDICATURE AT BILASPUR, C.G.

WRIT PETITION NO. 2367 /2003

(Petition under article 227 of the Constitution of India)

PETITIONERS :

1) Govind Ram Agrawal aged about 45 years, S/o late Rameshwar Lal Agrawal,

2) Golal Chand Agrawal, aged about 41 years, S/o S/o late Rameshwar Lal Agrawal,

3) Jeetendra Kumar, aged about 29 years, S/o late Rameshwar Lal Agrawal,

4) Rekh Chand Agrawal, aged about 34 years, S/o late Rameshwar Lal Agrawal,

5) Rajesh Kumar Agrawal, aged about 28 years, S/o late Rameshwar Lal Agrawal,

6) Smt. Savitri Devi, aged about 60 years, Widow of Rameshwarlal Agrawal,

7) Kumari Sweta Agrawal, aged about 24years, D/o late Rameshwar Lal Agrawal,

All are resident of Ward no. 12 station Road, Sakti, Distt. Janjgir Champa (C.G.)

P. R. No. 2236/03
Presented by Shri U.S.Mukherjee
dated 05.05.03

VERSUS

RESPONDENTS :

1) Mangelal Agrawal, aged about 65 years, S/o Badlu Ram Agrawal, President cum Manager, Shri Ram Chand Marwadi Panchayati Mandir Trust Sakti, Distt. Janjgir – Champa (C.G.)

2) Smt. Godwari Devi, D/o late Rameshwar Lal Agrawal, aged about 55 years, wife of Shankar Lal Agrawal, R/o D-11/6 Dipka, PO. Dipka, Tahsil and District Korba (C.G.)

3) Smt. Seeta Devi D/o late Rameshwar Lal Agrawal, aged about 50 years, w/o Roshan Lal Agrawal, R/o Gandhi Ganj, Distt. Raigarh (C.G.)

4) Munni @ Nirmala Devi, D/o late Rameshwar Lal Agrawal, aged about 36 years, W/o Manoj Agrawal, R/o Shiv Store Darri, PO. Darri, Tahsil and Distt. Korba (C.G.)

5) Smt. Saroj Devi, D/o late Rameshwar Lal Agrawal, aged about 32 years, wife of Pawan Agrawal, R/o Ward no.16 Khetrajpur, Post. Sambalpur, Distt. Sambalpur (Orissa)

6) Smt. Urmila Devi, D/o late Rameshwar Lal Agrawal, aged about 30 years, Wife of Rajkumar Paliwal, R/o near State Bank of India, Naila main road, Po. Naila, Distt. Janjgir- Champa (C.G.)

7) Smt. Krishna Devi, D/o late Rameshwal Lal Agrawal, aged about 27 years, wife of Pradeep Agrawal, R/o through Ravi Trailors, Ram Sagar Para, Raipur (C.G.)

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRIT OF CERTIORARI

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(31)

आदेश पत्रक

मामला क्रमांक WP 2367/03 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	29-8-2003 Shri Vishnu Koshta, counsel for the petitioners. Heard. By this writ petition filed under Article 227 of the Constitution of India, the petitioner has challenged the order dated 18-7-2003 passed by the Civil Judge, Class-I, Sakti by which the learned Civil Judge allowing the application of the plaintiff passed an order to the effect that the defendants are bound by the written statement (pleadings) already filed by their ancestors Rameshwar. A perusal of the order reveals that the suit regarding eviction from the disputed premises was filed by Shri Ramchandra Marwadi, Panchayati Mandir Trust, Sakti against deceased Rameshwarlal and Rameshwarlal had filed written statement and after hearing both the parties the issues were also framed. It appears that thereafter the tenant Rameshwar Lal died, therefore, the plaintiff moved an application under Order 22 Rule 4 of the C.P.C. for bringing the legal heirs of deceased Rameshwar Lal on record and that application was allowed and the legal heirs of Rameshwar Lal were brought on record. It also appears that the plaintiff moved an application vide Annexure-P/3that the legal heirs of deceased Rameshwar Lal have no right to file any additional written statement and as the written statement filed by ancestors is binding on them and the learned trial Court after relying on the decision of this Court reported in **2001 (1) C.G.L.J.169** in the matter of **Smt. Kalawati Gupta Vs. Krishna Kumar & Others** allowed the application.	

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(32)

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

The grievance of the learned counsel for the petitioner is that it is true that as per the law laid down by this Court the legal heirs of the deceased are bound by the written statement filed by their ancestors Rameshwar Lal. But, the trial Court is not allowing the petitioners to move an application under Order 6 Rule 17 of the C.P.C. to amend the written statement. A bare perusal of this order reveals that the trial Court has reiterated what has been held by this Court in the abovementioned judgment. It has nowhere mentioned that the legal heirs of the deceased are not entitled to move an application under Order 6 Rule 17 of the C.P.C. to amend the written statement. It simply said that whatever written statement filed by deceased Rameshwar Lal is binding on the legal heirs of the deceased plaintiff. It has also nowhere mentioned in this order that the petitioners are not entitled to move an application under Order 6 Rule 17 of the C.P.C..

Therefore, I do not find any substance in this writ petition and the same is liable to be dismissed and it is dismissed.

Sd/-
L.C.BHADOO
Judge

Barve*